

(Regulations of the Fair Political Practices Commission Title 2, Division 6 of the California Code of Regulations)

**18751. Procedure and Standards for Requesting Exemption from Government Code
Section 87300, Requiring Adoption and Promulgation of a Conflict of Interest Code**

(a) This section sets forth the procedure and standards by which the Fair Political Practices Commission will review a request for an exemption to Government Code Section 87300 from an agency for which the Commission is the code reviewing body. Other code reviewing bodies are encouraged to adopt the same or similar procedure and standards. Nothing in this section shall be construed to mean that a government agency is not required to adopt a conflict of interest code if it has not requested and been granted an exemption.

(b) An agency may submit a request to the Fair Political Practices Commission for exemption from the provisions of Government Code Section 87300 requiring adoption and promulgation of a Conflict of Interest Code. The term "agency" as used in this section means any state agency or local government agency with jurisdiction in more than one county.

(c) A request for exemption shall be approved by the Executive Director only if he or she finds:

(1) That if the agency requesting the exemption were to adopt a conflict of interest code, there would be no "designated employees," within the meaning of Government Code Sections 82019 and 87302(a), subject to its provisions; or

(2) That the agency is, or soon will be, inoperative and nonfunctioning.

(d) An exemption to Government Code Section 87300 may be granted to an agency when there would be no "designated employees" within the meaning of Government Code Sections 82019 and 87302(a) because all of the following apply:

(1) The agency does not have regulatory, quasi-regulatory, permit, licensing or planning authority or functions;

(2) The agency will not acquire real property in the foreseeable future; and

(3) The annual operating budget exclusive of salaries for the agency is less than \$70,000.

(e) In all other circumstances, the Executive Director will consider the requests for exemption on a case by case basis.

(f) A request for exemption under subsection (c)(1) shall be signed by the chief executive officer or a legal representative of the agency and shall be accompanied by:

(1) A list of every position in the agency, including each officer, employee, member and consultant with the agency;

(2) A copy of the job description for each position listed in subsection (1) above;

(3) A copy of the statutory authority under which the agency was created with specific citations to the provisions setting forth the duties and responsibilities of the agency;

(4) Identification of the person or body to whom the agency reports;

(5) A copy of the last annual or regular report submitted by the agency to the person or body to whom the agency reports;

(6) A detailed justification of the request for exemption including an explanation of why none of the positions listed in subsection (1) above are designated employees. In preparing this justification, particular note should be taken of Government Code Section 82019.

(g) A request for exemption under subsection (c)(2) shall be signed by the chief executive officer or a legal representative of the agency and shall be accompanied by:

(1) A copy of the statutory or legal authority under which the agency ceased, or soon will cease, to operate or function;

(2) The date, time and place of the last meeting of the agency;

(3) Identification of the positions and names of any staff who continue to work for or represent the agency, whether salaried or unsalaried; and

(4) A detailed explanation of the reasons the agency is, or soon will be, inoperative and nonfunctioning.

(h) Within 90 days after receiving the request for exemption, the Executive Director shall:

(1) Approve the request;

(2) Deny the request; or

(3) Return the request for additional information and resubmission within 60 days. Upon resubmission, the Commission shall, within 60 days, either approve the request for exemption or deny the request.

(i) When a request for exemption is approved, the Executive Director shall issue an exemption letter and transmit it to the requesting agency. Any interested party may submit a request that the approval be reconsidered by the Commission. The Chairman shall consider the request and, if in his or her discretion good cause exists for reconsideration, he or she shall schedule the matter for hearing before the Commission.

(j) When a request for exemption is denied, the Executive Director shall issue a letter denying the request for exemption, transmit it to the requesting agency, and establish a new deadline by which the agency requesting the exemption shall submit a proposed Conflict of Interest Code to the Commission. Any interested party may submit a request that the denial be reconsidered by the Commission. The Chairman shall consider the request and, if in his or her discretion good cause exists for reconsideration, he or she shall schedule the matter for hearing before the Commission.

Note: Authority: Section 83108 and 83112, Gov. Code

Reference: Section 87300, et seq., Gov. Code

History

(1) New section filed 7-28-76; effective thirtieth day thereafter.

(2) Amendment filed 3-3-86; effective thirtieth day thereafter.

(3) Amendment filed 4-21-92; effective thirtieth day thereafter.

(4) Amendment filed 10-23-96; effective upon filing.